

REMARKS

Upon entry of the foregoing amendments, claims 1-24 are pending in the application. Claims 12 and 22 are currently amended solely to remedy typographical errors. A replacement abstract is provided to correct various informalities. No new matter is presented by these amendments and their entry is respectfully requested.

Objection to the specification

The abstract of the disclosure was objected to for failing to comply with various formalities. Accordingly, Applicant has provided a replacement abstract and respectfully requests withdrawal of the objection.

Objection to the claims

Claims 12 and 22 were objected to for failing to comply with various formalities. Applicant has corrected the typographical errors present in these claims and respectfully requests withdrawal of the objection.

Rejections under 35 U.S.C. § 103(a)

Claims 1-3, 5-10, 13, 14, 18, 19, 23 and 24 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent 6,551,264 to Cawley et al. ("Cawley") in view of U.S. Patent 4,941,462 to Lindberg ("Lindberg"). Applicant respectfully traverses this rejection.

Cawley in view of Lindberg fails to disclose each and every limitation of the claims. Independent claim 1 recites the limitation, "said pressure cuff being adjustable ... to apply force to the patella in a plurality of directions," while independent claim 18 recites the limitation, "wherein attachment of said upper and lower connection members ... enable said force ... on the patella to be selectively applied in a plurality of directions." Cawley in view of Lindberg does not teach or suggest a cuff that can apply force to the patella in a plurality of directions. Rather, both Cawley and Lindberg show a cuff that can apply force in only one direction, the medial-lateral direction.

Cawley teaches a patella tracking guide disposed on a lateral side or the medial side of the patella that is connected via tension straps to two hinges disposed on the medial and lateral side of the knee. (See, e.g., Cawley, col. 8, ll. 1-9.) This arrangement applies force on the patella in only the medial-lateral direction. Likewise, Lindberg shows a crescent shaped patella bracing pad in contact with one side of the knee cap that applies force on the patella in only the medial-lateral direction. (See, e.g. Lindberg, col. 2, ll. 59-68.) Additionally, said forces can be adjusted in a plurality of ways via the multiple connection points, so not only are the forces *applied* in a plurality of directions, each of those forces can then be *adjusted* independently in a plurality of directions, to suit the patient's specific conditions, anatomy, functionality requirements, and comfort. Accordingly, the cited references teach away from the present invention as claimed.

Indeed, both Cawley and Lindberg, and all other patella bracing references provided by the Examiner, teach away from this limitation. As described in the present specification, prior devices were designed to exert a unidirectional force on the patella in the medial-lateral direction to prevent lateral movement of the patella during knee flexion and extension. (See, e.g., Present App. para. 7.) Cawley and Lindberg and the other references all teach the desirability of providing this unidirectional force and all show devices that exact only the unidirectional force on the patella in the medial-lateral direction. However, the tracking of the patella in any individual can vary quite considerably. Rather than moving in a linear up and down motion or a medial and lateral motion, the patella tends to "snake" its way around in a general manner during the motion. (See, e.g., *Id.*, para. 8.) The claims of the present application recite applying force to the patella in a plurality of directions, instead of the unidirectional medial-lateral force taught by the cited references. Accordingly, the cited references teach away from the present invention as claimed.

Moreover, the Office Action states that one of ordinary skill in the art would modify the patella-femoral brace taught by Cawley with the connection points taught by Lindberg because this would avoid pressing the connection members against the crook of the knee. However, the connection members used in Cawley do not press against the crook of the knee. Rather the connection members in Cawley are attached to the hinges on the side of the knee. As illustrated in Figure 9, the brace in Cawley is open in the back of the knee. Accordingly, one of ordinary

skill in the art would not be led to modify the patella-femoral brace taught by Cawley with any of the features taught by Lindberg.

Claims 2-3, 5-10, 13, 14, 19, 23 and 24 depend from and add limitations to either of independent claims 1 or 18, and are distinguishable from Cawley and Lindberg for the reasons set forth above. Additionally, Cawley in view of Lindberg fails to teach or suggest the limitations recited in claims 8-10 that the plurality of connection members can be selectively attached to the plurality of connection points such that the direction in which said pressure cuff exerts force on the patella is adjustable. There is no teaching in either of the references regarding adjusting the direction of the force. As discussed above, Cawley in view of Lindberg shows a unidirectional force in the medial-lateral direction that is not adjustable.

Accordingly, for at least these reasons, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection.

Claim 4 is rejected under 35 U.S.C 103(a) as allegedly being unpatentable over Cawley in view of Lindberg and further in view of U.S. Patent 4,445,505 to Labour ("Labour"). Claim 4 is distinguishable over Cawley in view of Lindberg by virtue of its dependence on claim 1, as discussed above. Labour fails to cure the deficiencies of Cawley in view of Lindberg with regards to claim 1 because Labour also shows a device providing a unidirectional force in the medial-lateral direction. (See, e.g., Labour, col. 1, ll. 48-53.) Indeed, by reinforcing the teachings that a unidirectional force in the medial-lateral direction is desirable, Labour reinforces the teachings away from the limitations recited in the present claims. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection.

Claims 11, 12, and 16 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Cawley in view of Lindberg and further in view of Labour and further in view of U.S. Patent 5,759,167 to Shields, Jr. et al. ("Shields"). Claims 11, 12, and 16 are distinguishable from Cawley in view of Lindberg and Labour by virtue of their dependence on claims 4, as distinguished above. Shields fails to cure the deficiencies of these references with respect to claim 4. In particular, Shields shows a buttress that constrains a patella from movement in a particular direction; however, Shields fails to provide a pressure cuff that can apply a force in a plurality of directions. Any combination of Shields with Cawley in view of

Lindberg and Labour would still apply a unidirectional force in the medial-lateral direction. Accordingly, Applicant respectfully requests withdrawal of the rejection.

Claim 15 is rejected under 35 U.S.C 103(a) as allegedly being unpatentable over Cawley in view of Lindberg and further in view of U.S. Patent 6,821,261 to Doty et al. ("Doty"). Claim 15 is distinguishable from Cawley in view of Lindberg by virtue of its dependence on claim 1, as discussed above. Doty fails to cure the deficiencies of Cawley and Lindberg with respect to claim 1. Specifically, Doty fails to show any features that apply a force to a patella. Accordingly, Applicant respectfully requests withdrawal of the rejection.

Claim 17 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Cawley in view of Lindberg and further in view of Labour and further in view of Shields and further in view of U.S. Patent 7,011,641 to DeToro ("DeToro"). Claim 17 is distinguishable from Cawley in view of Lindberg and Labour by virtue of its dependence on claim 1, as discussed above. DeToro fails to cure the deficiencies of Cawley and Lindberg and Labour with respect to claim 1. Specifically, Doty fails to show any features that apply a force to a patella. Accordingly, Applicant respectfully requests withdrawal of the rejection.

Claims 20-22 are rejected under 35 U.S.C 103(a) as allegedly being unpatentable over Cawley in view of Lindberg and further in view of Labour. Claims 20-22 are distinguishable from Cawley in view of Lindberg by virtue of their dependence on claim 18, as discussed above. For reasons similar to the discussion of claim 4 above, Labour fails to cure the deficiencies of Cawley in view of Lindberg. Accordingly, applicant respectfully requests withdrawal of the rejection.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 50-4562 referencing the Atty. Docket No. noted above. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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